

A SOVERAIGNE

59

ANTIDOTE

TO

Prevent, Appease, and Determine our
Unnaturall and Destructive Civill
VVars and Dissentions.

WHEREIN

Divers serious Considerations tending to this purpose,
are propounded both to the King and Subjects, The
Parliaments and Sir *John Hothams* Proceedings at *Hall*, and in the
Militia justified. Sir *John Hothams* Actions proved to be nei-
ther Treason, Felony, nor Trespas by the Laws of the Land,
nor any just ground or cause at all for his Majesty to
raise an Army, or a most unnaturall Civill
War in His Kingdom.

With a most serious Exhortation both to the King and
Subjects to embrace and preserve Peace, and abandon Civill
Warres; with other matters worthy of
consideration.

Also VOX POPVLI, or the Peoples humble Dis-
covery of His Majesties ungrounded Jealousies and
their own Loyaltie.

Prov. 12.20.

To the Counsellors of peace is joy.

Math. 6. 9.

Blessed are the Peace-makers, for they shall be called the children of God.

LONDON,

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without Ludgate.

AN TIDOTE

To
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unnaturall and destructive Civill
Wars and Dissentions.



He present deplorable condition of our bleeding and almost expiring Kingdom, machinating its own inevitable ruine by a cannellike groundlesse Civill Warre, intended (as the Parliament informs us) by the King (seduced through pernicious Councillors) against the Parliament and the Kingdom, which intention is now apparent by his besieging of *Hull* and raising an Army in the North, hath in a manner constrained me (though altogether unable for such a service) to attempt the speedy redresse of this transcendent calamitie, by propounding certain materiall considerations, both to the King and Kingdom, and then by examining: whether there be any just cause or ground at all on his Majesties part to levy warre against *Hull*, the Parliament, his People, especially whilest the Civill wars in *Ireland* have continuance.

To avoid prolixity and obscurity, I shall reduce my considerations unto these ensuing foure Propositions, and deductions from them.

First, That it is the bounden duty of every good Christian King and Subject to the uttermost of their powers, to preserve and maintaine the peace and prosperity of the Kingdoms wherein they live, and to prevent all Civill warres and Dissentions in them.

This Proposition being of greatest consequence, I shall be more prolix therein, and it is thus proved.

First, by these generall precepts given by God, both to King and people. *Seek peace and perfect it.* Psal. 34. 14. *Be ye followers of peace.* 1 Pet. 3. 11. *As much as in you lyeth live peaceably with all men,* Rom. 12. 18. *Live in peace, be at peace among your selves &c.* 2 Cor. 13. 11. 1 Thes. 5. 3. Ephes. 4. 3. Col. 3. 15. Rom. 14. 19. *Have peace one with another,* Mar. 9. 50.

Inundry
Declarations
and in certain
Propositions
concerning the
raising of the
Hosts &c.

Secondly, more particularly by the 1 Tim. 2. I exhort therefore, that first of all Prayers, Intercessions, and giving of thanks be made for all men, for Kings, and for all that are in authority, that we may lead a quiet and peaceable life in all godliness and honesty: compared with Jer. 29. 7. And seek the peace of the City, whether I have caused you to be carried away Captives, and pray unto the Lord for it, for in the peace thereof shall ye have peace.

Thirdly, by that injunction of King David himself given to all his people by divine command, Psal. 122. 6, 7, 8. Pray for the peace of Jerusalem, they shall prosper that love thee, peace be within thy Walls, and prosperitie within thy Pallaces, for my Brethrens and Companions sake, I will now say, peace be within thee.

Fourthly, by that speech of good Hezekiah, Isa. 26. 8. 1 King. 20. 19. Good is the Word of the Lord which thou hast spoken, for there shall be peace and truth in my days.

Fifthly, by the titles given to God and Christ in Scripture, where God is oft styled, The God of peace, Rom. 15. 33. 16. 16. 2 Cor. 13. 11. Phil. 4. 9. 1 Thes. 5. 23. 2 Thes. 3. 16. Heb. 13. 10. And Christ the Prince & King of peace, Ha. 9. 6. Heb. 7. 2. By the severall promises of God in Scripture, to give his people peace in their Land, to bless his people with peace, to ordaine peace for them, to keep them in perfect peace, &c. Levit. 26. 6. Psal. 29. 11. Na. 1. 3. 12. 6. 32. 17. 59. 13. 65. 12. 66. 13. Ezech. 34. 25. Hag. 2. 9. Zech. 8. 18. 19. By Christs own Legacy who bequeathed his peace unto his people, Joh. 14. 27. Now if God be a God of peace, and Christ a Prince and King of peace, and both of them give and promise nothing but peace unto their people: Then Kings, who are Gods Vicegerents, and ought to imitate his example, must endeavour to be Kings of peace, and study to the uttermost to preserve the Kingdoms and Subjects in perfect peace and prosperity, and not to make war against them.

Sixthly, this is evident by two excellent speeches of David, Psal. 78. 70. 71. 72. He chose David his servant, and took him from the Sheepfold: from following the Sheeps great with young, hee brought him to feed Jacob his people, and Israel his inheritance; So he fed them according to the integrity of his heart, and guided them by the skillfulness of his hands. By which text it is most evident, that Kings are not absolute Lords, but truly Shepherds or Pastors of their people, set over them by God, not to worry or slay, but to feed, guide and seek their welfare, in the integrity of their hearts, to rule them with all gentleness, care and vigilancy, provide for their security, Na. 40. 11. Ezech. 34. 16. to 30. and if occasion be, to lay down their very lives for the safety of their flocks, as good Shepherds are willing to doe, Joh. 10. 11. 15. and as King David desired to doe, in this second speech of his, worthy all Princes consideration; He seeing the Angels that smote the people, spake thus unto the Lord, Lo, I have sinned and dealt wickedly, but these Sheep what have they done? Let thy hand I pray thee, be against mee and my fathers house, but not on the people that they should be plagued, 2 Sam. 29. 17. 1 Chron. 21. 17. Answerable whereunto is that speech of the matchlesse Governour Moses (most zealous for his peoples safety) who desired God to blot him out of his Book, rather then to destroy the Israelites under his charge for their sin of Idolatry, Exod. 32. 32. And when God said unto him, Let me alone that I may

b Numb. 6.
16.

c 2 Chron. 9.
8.
Rom. 13. 1,
2, 4, 6.

d 2 Chron. 9.
8.
2 Sam. 23.
3, 4.

e 2 Chron. 9.
8.
2 Sam. 23.
3, 4.

constrain them; for they are a stiffnecked people, and I will make of this a great Nation: Hee utterly refused this offer, and continued expostulating the case with God in Prayer in the Israelites behalfe. Beseeking him to turn from his fierce wrath, and to repent of the evil against his people, till hee caused God to repent of the evil which he thought to doe unto his people, Exod. 32. 9. to 15. Numb. 14. 11. to 21. O that all Christian Kings and Princes were now so zealous of their peoples safety (as in truth they ought to be) they durst not then leavy warre against them, much lesse excite them to shed one anothers blood.

If these divine precepts and examples be not sufficient to cleere this shining truth, I shall adde some humane authorities to ratifie it, and that both of Pagans and Christians: To begin with Pagans Resolutions; it was a worthy saying of *¶ Pelopidas*, when, going forth to Battle, his wife wished him to save himselfe, others (quoth he) are to look to this, but a Prince and Emperour ought to take care how hee may save his Subjects. *¶ A good Prince* (writes *Quintus Curtius*) esteems the safety of his Subjects more deere unto him then his own life. It is an excellent Observation of *¶ Seneca*, that though all other Bees have stings, which they leave in the wound, yet the King among the Bees hath no sting at all, for nature would not have him to be cruell, nor revengefull to his cost, and therefore hath taken away his sting, and left his anger unarmed. This should be a great example to mighty Kings, let them not be ashamed to learn manners from small creatures, seeing the minds of men ought to be more moderate, by how much the more vehemently it may doe harme. Security is to be gained by mutuall security, &c. Kings have one impregnable fortification, the love of their subjects, which they shall then be sure of, when they deem the Common-wealth not to be theirs, but they to be the Common-wealths. And hee concludes thus, *¶ There is no Ornament more worthy and more becomming a Princes Highnesse, then that Crowne ob. eives servatos, for preserving and saving his Subjects: Not hostile Arms taken from the conquered, nor the Chariots of the Barbarians died with blood, nor the spoyle gained in Warre.* Many more instances of this nature. I pretermitt for brevity, to passe from Pagans to Christians, *¶ Constantine the Great* was wont to say, that an Emperour ought to spare, no not his own members, for the preservation of the peoples tranquillity. Pope *Elutherius* in his *¶ Epistle* to our King *Lucius*, the first Christian King, about the yeer of our Lord 169. writes thus to him. *The Nations and people of the Kingdome of Britain are yours, which being divided you ought to congregate and reduce into one, to concord and peace, and to faith, and the law of Christ, and so the holy Church, to cherish, protect, mayntain, govern, and defend them from injurious and malicious persons and enemies. A King is named from governing not from a Kingdome; Thou shalt be a King whilest thou rulest well, which unlesse thou shalt doe, the name of a King shall not remain in thee, and thou shalt lose the name of a King, which God forbid.*

Finally, to close up this Proposition, the Kings of England (& so the Emperors with most other Christian Princes) doth take this solemn Oath & make this serious Protestation to their Subjects at the Coronation, *¶ I will keep peace & godly agreement inirety (according to my power) both to God, the holy Church, the Clergie, and the People.* By which Oath they are obliged, under paine of the highest

¶ Plutarchi A-
pothegmata.
g. Hist. l. 10. p.
486.

¶ De Clemen-
tia l. 1. c. 19.

¶ Ibid. cap. 26.

¶ Zonarus An-
nal. Tom. 3.
p. 117.

¶ Spelmani
Concil. p. 34.
and in sundry
other of our
Writers.

¶ R. 1. 1. 1. 1.

¶ See Toties
Magna Charta
1571.

¶ The Parlia-
ments Remon-
strance 26. of
May, 1642. p. 9
And his Ma-
jesties Answer
thereto, p. 16. 17.

highest perjury, to preserve the generall peace of the Kingdome and people; to avoide all civill Warres, unlesse in case of their subjects open Rebellion, not any otherwise to be suppressed but by a war against them: and not to arme one subject to assault or destroy another. Neither is this a late devised oath, in *Henry* the fourth his time, but King *Henry* the first, King *Stephen*, *Richard* the first, King *John*, and *Henry* the third, (as *Matthew Paris* records in their lives) tooke the same oath at their Coronations, and promised faithfully to fulfill it, and all our other Kings since have done the like.

From this first Proposition, thus abundantly satisfied, these conclusions necessarily ensue.

Conclusions
deducted from
the former
Proposition

First, that his Majesty cannot without great sin and wilfull perjury raise a Civill Warre against the Parliament and Kingdome, and excite his loving subjects (who have lived in peace for so many yeares, and are all of one Nation, one Religion, one flesh and blood) without any just cause, most unnaturally to destroy and murder one another, and so to finne their own native Countrey, and undoe themselves and their Posterity.

Secondly, that no faithfull subjects ought to foment or promote such an unreasonable, unnaturall civill Warre, or give any assistance to it in the least degree upon any considerations whatsoever, but to the uttermost of his power by his prayers, and all other lawfull meates to prevent, oppose, and withstand it, for the preservation both of the King, Kingdome, Parliament, their owne Liberties, Inheritances, Lives, Persons, Families, Estates, and Religion, and to unite all their Forces to extinguish the flames of civill dissensions already kindled among us.

Thirdly, that those malignant spirits who counsell and instigate his Majesty to a civill warre against his Parliament and people, are most unnaturall Vipers, and Traytors to their Countrey, desperate Rebels against God, and most execrable wicked persons, and so God himselfe hath proclaimed them to all the world, *Isa. 59. 5. to 10. They hatch Cockatrice egges, and weave the Spider Webbe, he that eateth of their egges dyeth, and that which is crushed breaketh out into a Viper, their workes are workes of iniquity, and the Act of violence is in their hands, their feet run to evil, and they hast to shed Innocent blood, their thoughts are thoughts of iniquity, wasting and destruction is in their paths, the way of peace they know not, and there is no judgement in their goings. They have made them crooked paths, whosoever goeth therein shall not know peace. And Rom. 3. 13. to 19. Their throat is an open Sepulchre, with their tongues they have used deceit, the poyson of Aspes is under their lips, their mouth is full of cursing and bitterness, their feet are swift to shed blood, destruction and misery are in their wayes, and the way of peace they have not knowne, there is no feare of God before their eyes. O, miserable unhappy Princes, who are advised, seduced by such pernicious Counsellors! O rash inconsiderate wretched people, who are besotted by them, so farre as to take up Armes against their native Countrey, to become their owne, their Brethrens, the Parliaments, and Kingdomes Executioners, and thereby most detestable Traytors! as all such who take up Armes against the Parliament are adjudged to be in the Parliament of 11. R. 2. the record whereof was published in print by Order of both Houses, May 27, 1642. to which I shall referre you.*

* Nulli hostes
digniores sup-
plicio sunt,
quam i qui
contra patri-
am arma sum-
unt. Cicero
Qu. Fratrum.

Fourthly, that if the King against his Oath and Office, will without just cause make warre upon his Parliament and Kingdom, they may lawfully take up Armes for the preservation of the Kingdomes peace, and their own just defence, for when the King who should protect them, will against the trust and duty of his Royall Dignity, set himselfe to destroy them; they having no other protection, may justly protect and defend themselves, even as Souldiers, Children, Wives, Servants may by the equity of all Lawes, lawfully by open force defend themselves against the bloody assaults and violence of their Generalls, Parents, Husbands, Masters, who seek to take away their lives, though in all lawfull things they ought to be subject and obedient to them. If a King should causelessly run at a subject with a naked sword to kill him, the subject may lawfully put by his thrust and defend his life, which a King hath no power to take away, *but upon just grounds after a legall trial, and that in a legall, not an extraordinary way.* Much more may the whole Parliament and Kingdom withstand a Kings open causelesse hostility against them, to preserve themselves and the Kingdom from destruction. This is evident even by divine Authority, as namely by the example of David, who though a subject *took up Armes, and raised an Army to defend himselfe against King Saul his Sovereigne, who causelessly made warre against him, and sought his life, and though he still avoyded Saul, and twice refused to hurt or murder his Person, when he was in his power, because he was Gods anointed.* Yet no doubt had Saul assaulted him with his Army, he would have defended himselfe against him in Battell: Nay, this is manifest in an Higher Degree by that most Observable Passage in the first of Samuel 14. 39. to 46. Where when King Saul had made a rash vow, *that whosoever had tasted any thing that day, (contrary to his command, whiles he pursued the Philistines) he should dye the death, though it were Jonathan his Sonne, who procured that Victory and the Day fell upon Jonathan, who did but taste a little Honey on the top of his Rod, who said, and too I must dye for this;* Saul answered, *God doe so, and more also, for thou shalt surely dye Jonathan;* the people thereupon said to Saul (notwithstanding hee were their King, and had made two such solemn Oaths) *shall Jonathan die, who hath wrought this great deliverance in Israel? God forbid;* as the Lord liveth, *thou shalt not see the haire of his head fall to the ground, for he hath wrought with God this day, so the people rescued Jonathan, that he died not.* Here the people not only justly defend, but rescue Jonathan, being an Innocent from death, not only contrarie to the resolution, but vowes and Oaths of their owne King, to put him to death, and so doubtlesse they would have defended themselves by force in the like case. There is a notable place to this purpose in the first of Kings 12. 1. to 25. 2 Chron. 11. 1. to 5. *where when the ten Tribes (through Rehoboams following of the rash Counsell of the young men) revolted and rebelled against him, being their lawfull King, and made Ieroboam King over them, Rehoboam, as soone as he fled from them and came to Jerusalem, assembled all the Tribe of Judah, and the House of Benjamin, an hundred and fourscore thousand men, which were Warriors to fight against the House of Israel; (who rebelled and revolted) to bring the Kingdom againe to Rehoboam the Sonne of Solomon. But the word of God came to Shemaiah the man of God, saying, speake unto Rehoboam the King of Judah, and unto all the house of*

* See 1 Kings
21. through-
out 2 Kings
9. 25. Exod.
1. 16. to 22.
1 Sam. 22.
to 27.

Judah and Benjamin, and to the women of the people saying; Thus saith the Lord, You shall not go up to fight against your Brethren the Children of Israel; (though Rebels) returne every man to his house, for this thing is from mee. They hearkned therefore to the word of the Lord, and returned to depart, according to the word of the Lord, from going against Jeroboam and their Brethren. Here God himselfe prohibits both King and people to raise a Civil warre against their Brethren, though Rebels and Revolters in the highest degree, and they both lay downe Armes hereupon for the present. And when Rehoboam and Abijah his sonne afterward made war upon them; they did lawfully resist and oppose them. 1 Kings. 12. 30. 12. 31. 12. 32. Chron. 12. 15. and chap. 13. throughout. So the men of Tirzah were besieged by King Omri, who lawfully defended themselves for their Liberty. 1 Kings 16. 17. 18. and thus did those of Bethmannan against Sennacherib. 2 Kings 19. 20. 21. To passe from Scripture presidents, Infinite are the examples in history of subjects who by the very dictate law of nature, which instructeth every creature to defend it selfe against unjust violence, defended themselves in all ages against the assaults, oppressions and groundlesse warres of their unnaturall Princes. But the many late examples of this kinde of the Protestants in France, Germany, and Bohemia, who have by open force defended their persons, estates, Religion, against those Popish Kings and Governours, who have cruelly devied Warre against them, (which act of theirs all Protestants affirmen, both in both by the lawes of nature, God and man) and our own doo likewise examples of the long continued Barons Warre, both in King John, King Henry the third, Edward the second, and Richard the second Reignes, who took up Armes against these Princes, for the just defence, preservation, and establishment of the Lawes and Liberties of the Kingdome (which these Princes contended against even in times of Popery) which a World of things, say the Histories, Church, and people of those times, and by all succeeding Ages since, was and hath been resolved, not onely lawfull, but a honest, just and honorable, and worthy eternall Praises, by means whereof our Kingdome hath quickly enjoyed those Lawes and Liberties, which they contended for over us, which otherwise had been long agoe utterly lost, and the Kingdome which then, will abundantly suffice to cleare and ratifie this conclusion, beyond all contradiction or exception of any malignant Spirits.

Fifthly, that it is lawfull and necessary for the Parliament for the preservation of the Kingdome, peace, and industry, for necessary defence, and the better prevention of Civill warres, to settle the Militia, and secure the Magazines of the Realme by such means as may most effectually advance and accomplish this great much opposed worke, since His Majestie hath refused to passe a Bill to accomplish it. Neither is this way of settling the Militia a Novelty, but the most ancient practice and custome of this Kingdome, for it appears by King Edward the first, that in his and former ages, the Lev-tenants and supream Commanders of the Militia in every County, were elected; per commune Concilium, pro communi utilitate regni, per provincias et parias universas, & per singulas Comitatus, in pleno Falkemots, by the Common-counsell, for the common utility of the Realme; through every Province, Countrey and County, in a full Falkemots or County Court by the Free-

(o) See Matthew Paris, Holinshed, Wallingham, Speed, Stow, Grafton, Matthew Westmister, Fabian, & others.

(p) Optime meriti sunt qui & omnibus Laudibus digni, qui sua corpora pro patriae defensione periculis abjecerunt, Locates p. 108.

Nihil est praestabilius vita forti, quam periculis patriam Liberae. Cicero. pro. An. Milone, Orat. Mortes pro patria appetit, non solum gloriose Rhetoribus, sed etiam beatam videri solent. Cicero. Tusc. Quest. lib. 2.

* See Cookes Institutes on Magna Charta, fol. 174, 175. And Leges Edwardi Regis cap. de Hereticiis, in Lamberts Archion.

Free-holders of the County. And if the Freeholders in ancient times thus in every County elect their Lieutenants and Captaines of their *Militia*, to Train and Order them; yea, and the high Sheriffs too, who had the command of the whole power of the County, whom they then likewise elected (as appeares by the same Law of King Edward) by the same reason, and greater may the whole Parliament in this case of necessity lawfully elect them now, without any impeachment to his Majesties Prerogative.

Sixthly, that His Majesties late Commissions of *Array*, to enforce one subject to take up Armes against another, in effect to maintain a Civill-warre, and to imprison those who refuse contrary to the expresse Letter of *Magna Charta*, c. 29. the late Petition of Right, & *Caroli*. (in the Answer wherunto His Majestie professeth, that it is his Maxime, *That the peoples libertie strengthens the Kings Prerogative, and that the Kings Prerogative is to defend the peoples Liberties*.) Is directly against the Law, and His Majesties Coronation Oath, as the Parliament hath now lately proved it.

Seventhly, That, to dissuade and divert His Majestie from this Civill-warre, and shedding the blood of his innocent subjects, will be a most acceptable and meritorious service both to God, the King himselfe, and the whole Realme. To God it must be so, because he is a God of peace, abhorring all unnaturall Civill-warres, as is formerly demonstrated. To the King himselfe it must be so, because it will exempt him from the guilt of perjury in violating his Oath, from the guilt of innocent blood and murders, by causing his people causelessly to sheath their Swords in one anothers Bowels; and from many other sinnes and mischiefs. To the whole Kingdome it must be so, which desires peace and unity, and abhors the very thought, much more the sight of an unnaturall Civill-warre, which will now in all probability, as things stand abroad and at home procure abundance of misery, if not utter ruine both to King and people. When *David* by reason of *Nabals* churlish Answer, had taken up a peremptorie Resolution, *By the morning light to slay every one of Nabals household that pissed against the Wall.* *Abigail*, *Nabals* wife hearing of it went and met *David* and his Army in his March, to doe this execution, and by her presents and prudent speech, diverted him from this his Resolution. Whereupon *David* said to *Abigail*, *1 Sam. 25. 32. 33. Blessed be the Lord God of Israel, which sent thee this day to meet me, and blessed be thy advice, and blessed be thou, which hast kept me this day from coming to shed blood, and from avenging my selfe with mine owne hand.* O that some discreet man or woman could now divert His Majestie from his intended Civill-warre against *Him*, the Parliament and Kingdome, as *Abigail* here did *David*; certainly it would cause his Majestie upon due consideration, to breake out into *David*s words, and to blesse both God, their advice, and them, for keeping him from shedding his owne subjects innocent blood, and from avenging himselfe with his owne hand; neither of which becomes a gracious Prince, and may prove destructive both to himselfe, his people, and Kingdome.

(q) See the Commons Declaration concerning the Commission on Array of July 1. 1642. VVhere it is fully proved.

(r) 1 Sam. 25.

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The second Proposition.

THE second Proposition is this: That the King ought not to deny or deferre justice or right to any of his subjects, much lesse to the whole Kingdome. This is manifested both by the expresse words of *Magna Charta*, c. 29. *Nullo vendemus, nulli negabimus vel differemus iustitiam vel rectum*, and by many excellent Statutes since, as 2 E. 3. c. 8. 14 E. 3. c. 14. 20 E. 3. c. 1, 2. 1 Rev. 2. cap. 11.

It will then be worthy His Majesties serious second thoughts to consider, First, whether his voluntary withdrawing himselfe from his Parliament to *York* (which hath much retarded, if not wholly frustrated all Parliamentary Proceedings, since for the safety and well-fare both of this Kingdome and *Ireland*) be not an apparent violation of this part of his Royall Duty.

Secondly, whether his peremptory refusall to passe some necessary usefull Acts, for the good of the whole Realme, upon a pretended discontent against the Parliament, and Sir *John Hotham*, and a private vow (as some report) not to passe any Act whatsoever, till he received justice in Parliament against Sir *John Hotham*, for the businesse of *Hull*, and his refusall to settle the *Militia* for the safety of the Kingdome by Act of Parliament, or otherwise, be not an apparant breach of this trust and parcell of his Kingly office.

Thirdly, whether his detaining of the Lord *Keeper* and great Seale at *Torke*, whereby many subjects processses, and causes have been delayed, their suites retarded, and some of them quite lost, be not an apparant deviation from this Proposition.

Fourthly, whether his absolute denyall to disclose the Accusers and Informers against the Lord of *Kimbolton*, and other five Parliament men, that so they might acquit themselves, and have right and justice against them for their malicious false suggestions, runnes not point blank against this irrefragable Proposition, and be not a flat denyall of common Right and Justice to those eminent persons.

Fifthly, whether it be not an apparant Violation and denying of Justice, for his Majestic to proclaime Sir *John Hotham* a Traytour, and demand Judgement against him as such a one, before his cause was rightly stated, or resolved to be Treason by any Court of Justice, or the Parliament.

Sixthly, whether his Majesties raising of a Civill warre at this very season in *England*, his besieging of *Hull*, with his slighting and opposing the Parliament in open Declarations, even now during the hear of the bloody warres in *Ireland* (by meanes whereof those Irish Rebels are exceedingly encouraged, the Protestant party and our Souldiers there much discouraged, and the Parliament now quite disabled to supply them with provisions of Ammunition and money which they want, by meanes whereof the Rebels (now halfe subdued) are like to regaine the Forts they formerly lost, and in time wholly to conquer that Kingdome, and so utterly to extirpate the *English* Nation and Protestant Religion thence) be not a reall tacite denying and delaying of aide, right and justice to that distressed bleeding Kingdome, which now lyes and calls to his Maiestie and the Parliament for present succours and supplies, which this now Civill warre will in all probabilitie totally frustrate to the great advancement of Papists and *Romane* Religion.

B

If

within 25 E. 3. (for then this Law had beene idle and superfluous, especially being intended

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and agree, that in case the Pope shall enforce or attempt by Process, or by any other manner of doing, to constrain the King or his subjects to performe this (as it is said hee will) these parties will resist with all their puissance. So that by the Resolution of this whole Parliament, the King cannot grant away his whole Kingdome, without his peoples consent in Parliament; and by the selfe same reason, not any part, partell, Towne, or Fort thereto belonging, they being the kingdomes, not the Kings owne right. The Civilians of forsaigned parts disputing of the pretended Donation of Constantine the great of Rome, Italy, and Supream jurisdiction there, to the Pope, resolve this ^a Donation void, because the Emperour by Law cannot give away any of his Empire, it being contrary to his Coronation Oath: wherein he swears, to maintaine the Dignities and Rights belonging to the Empire, that he will not impair the goods and state of the Empire, but keepe inviolable the Rights of his Kingdome, and the honour of the Imperiall Crowne. By vertue of which Oath, they hold the Emperour strictly obliged in duty both to God and the Empire, to take to themselves, not onely all those large and faire Territories, which the Pope hath taken, either by force or fraud invaded; decking himselfe with the Eagles plumes; but specially they ought to resume that Dominion in those very Lands which the Pope now challengeth as his owne, by force of this forged grant. ^c Baldus a learned Civilian writes: That the Doctors of the Law determine, That Constantines pretended Donation neither is nor possibly can be of force, to passe away, either the propriety or supream Dominion in these Territories, or the Imperiall iurisdiction over them. For to say that the Emperour would by his Donation mutilate, or cut away the Members of the Empire is a kinde of folly. ^d Arctine not onely assents to Baldus, but much commends his judgement therein, Baldus (saith he) doth elegantly teach, that the Emperour cannot give away any quotient, neither a third, nor fourth part, nor halfe of his Empire. Whereby Baldus meanes, that the Empire being an indivisible and universall power, the Emperour by giving ought, ceaseth not to be universall Lord of all belonging to the Empire. ^e Lucas de Penna, is very pregnant in this point. The Royalties of the Empire (writes he) cannot be alienated from the Emperour. Yea, though the Emperour should sweare, that he would not revoke such Royalties as were alienated to the prejudice of his Crowne and Dignitie, yet notwithstanding this his Oath hee might recall such alienations, because the Emperour sweares at his Coronation, to keepe safe the honours and rights of his Kingdome: but by alienating his demaines and Territories, he doth not preserve but impair the Imperiall Rights. ^f Albericus de Rosate is copious in this case. Let us see (saith he) whether Constantines Donation could be of force to prejudice his Successours, Accosius holds it could not, so doth Iohn de Parisius, And he gives this reason thereof: Because none deputed to an office, may doe ought against his owne office. But it is against the office deputed to the Emperour, to impair his Empire, or cut or take away any part from it. For by the same reason that he cutt away one part, he may cut away also another, and so may his successors, and so the Empire at last should be brought to nothing, and utterly destroyed which is against the publike good, and the end why the Empire is ordained; Whereupon I doe beleve, that the foresaid Donation by law cannot be of force to prejudice the Empire or the Successors. The same Doctrine is delivered for Law by Boetius Epon Henric. qu. 3. nu. 43. quest. 5. nu. 19. 27. 34. by Didacus Gouerrumius Practic. qu. c. 4. nu. 1. by Franc. Vargus, de Autho. Pontifi Axiom. 1 Num. 2. Gualelmus, Benedictus, Caratus, Degrossatus, Felinus, with others. All which I have cited, to shew the concurrence of the Civill with our common law in this particular, and to resolve all opposites in this point, who scruple at it.

First, From all these premises it is apparent, 1. that the case of Sir John Hotham, and the

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Towne of Hull, was not rightly stated by his Majestie in his *Declaration* sent in a Message to both Houses, the 21. of *May*, 1642. To wit, that his Majestie hath the same Title to his *Towne of Hull*, which any of his Subjects hath to their houses, or lands, and the same to his *Magazine and Munition* there, bought (as he saith) with his owne *Moneyes*. When as many, or most of the *Armes* there, were against law, violently taken away from the Subjects in *Essex*, and other Counties (who bought them with their own *Moneyes*) without paying any consideration for them, and the other was purchased with the *Kingdomes* Money, with which his Majestie was but intrusted, which any of his Subjects have to their Money, Plate, or Jewels, and therefore that they ought not to be disposed without his consent, no more than the house, Land, Money, Plate, or Jewels of any Subject ought to be without or against their Remembrance in answer to that *Declaration*, *May* 26. page 4, 5, 6. To which I shall referre you.

Secondly: That the King having no interest in *Hull*, or the *Magazine* there, but onely as King, and the publique Minister of the *Kingdome*, for the *Kingdomes* use and benefit, and the preservation of its security and peace, it is and was lawfull for the whole *Kingdome* assembled in *Parliament* (upon probable grounds and informations and proofs, that his Majesty seduced by some pernicious Enemies to the *Kingdomes* tranquillity, intended to seize upon this *Town* and *Magazine* by surprise, thereby to let in forraigne Forces, and raise a Civill warre against the *Parliament* and *Kingdome* to the disturbance of the publique peace, and hazard of the *Realmes* of *England* and *Ireland*, and contrary to the publique trust reposed in him, (the breach whereof doth in some sort determine it for the present) to turn those *Armes* and *Ammunitions* provided for his Subjects safety, upon them to their destruction) to seize upon and secure them for the present, for the prevention of this danger and abuse of them, the *Kingdomes* better security (the true ends for which this *Town* and *Magazine* was first fortified and provided) And that without any danger of *Treason* and disloyalty in them or their Agents, imployed in this service. Neither is this any new case, for both in the well knowne *Barons* warres in this *Realme*, and late stirres in *Scotland*, the *Barons* and *Scots* seized upon the Kings *Townes*, *Castles* and *Ammunition*, for the security and peace of these severall *Kingdomes*, without any danger or charge of *Treason*. And if it were no *Treason* in the *Scots* within these two years to seize upon all or most of His Majesties *Townes*, *Fortes*, *Magazines* and *Ammunition* in *Scotland*, and on *New-castle* in *England* for the common peace and safety of their *Kingdome*, and prevention of Civill warres, as his Majestie and the *Parliaments* both of *Scotland* and *England* have resolved, why should it be *Treason* or *Felony* in the *Parliament* or *Sir John Hotham* their Agents peaceably to possesse themselves of the *Towne* and *Magazine* of *Hull*, for the safety of the *Realme*, the prevention of Civill warres and preservation of the publique peace, when as they keep them onely for his Majesties and *Kingdomes* use, and are ready to redeliver them into his Majesties actual possession, if they may be secured, that they may not be misimployed against them. If a *Constable* or any other person breake into another mans house and take away his sword and *Armes*, and arrest him to preserve the peace, and prevent murder, he may by the common Law justifie the Act, and detain the others weapons till the fray be over, and the peace secured: Yea, if a man should detain his Majesties sword or Pistoll from him, in case he intended causelessly or unjustly to murder any of his Subjects with it, till his wrath were past, I presume it would be neither *Treason*, *Felony*, nor any illegall misdemeanour, much lesse can it be any *Treason* or offence in the *Parliament*, or *Sir John Hotham* their instrument, upon just suspicions to possesse themselves of the *Town* and *Magazine* of *Hull*, in a peaceable manner, and to sequester and detain them from his Majesty for a season, till they may have good assurance,

rance, that neither of them shall be misemployed by the instigation of mischievous Counsellors, to the hurt or destruction of the Kingdome and them, as they are informed Wars are intended to be. But more of this hereafter Deduction 4.

Thirdly, Admit the case of *Hull* and the Magazine there such as his Majesty puts it, yet then by his Majesties Argument, every subject hath as good and firme an interest, and property in his owne goods, Lands, Houses, as his Majesty hath in his *Tower of Hull* or his *Magazine*. By what Law or Justice then hath his Majesty seized lately upon his subjects Armes and Magazines in divers Counties, bought with their owne Moneyes, for their owne private and the publique defence of the Realme against Theeves and Forraigne Enemies, and forcibly taking them away without paying for them, and now imployed them in a Civill warre against *Hull* and his subjects? Doubtlesse the Parliament may with more justice and equity seize upon the publique Magazine of the Kingdome and *Hull* (a frontire Towne well fortified) for the security of the Realme, and prevention of Civill warres, than his Majesty seize upon his subjects Armes and Magazines of powder to make a Civill warre. And seeing the Armes at *Hull* were many of them violently and illegally taken from the Subjects without consideration, why the Parliament may not lawfully seize them to restore them to their owners, who have petitioned for them, I cannot yet dispute.

Fourthly, In cases tending to the common good and safety, even by the common Law of the Land, a man may lawfully commit a trespass, and doe an injury to another mans Lands, Houses, and Inheritance without crime and offence. If an enemy invade the Realme, any General Captain or subject to resist him may lawfully enter into any other mans Land, and there dig Trenches, build Forts and Sconers (if they be necessary) to resist the Enemies. Yes, he may enter into any of the Kings Forts and Towns which are only for the publique good (as the experience of all ages testifie) without any previous speciall Licence; yea for use and defence thereof, because it tends to the safety of the Realme and common good to which all private interests, and much more (the Kings publique in such cases must give place. Upon this reason it is agreed in our Law books, That if a Town or Citie be besieged, or in danger to be beleaguered by an enemy, and the Suburbs may endanger the taking thereof by yielding harbour, or a convenient battery to them. The inhabitants or Souldiers within the Walls, may lawfully burne or destroy the Suburbs for the Towns or Cities preservation, and the common safety. Nay, if a house be on fire in a Town, men may justifie pulling down the roofe, and of the next adjoining houses if there be cause, to prevent the burning of the whole Towne, it being for the common good. Yea, Fishers at Sea may justifie their going on others mens ground adjoining to the Sea, because their fishing is for the common profit of the whole Realme. If then private persons may thus legally prejudice other particular men in these cases in their Lands and Houses, for the common good, then much more may the whole representative body of the Kingdome in Parliament seize upon *Hull* and the Magazine there, for a season being the Common wealths, and the Kings only in right of, and for the service of the Kingdome for the publique peace and safety, and the prevention of Civill warres, without any danger of trespass, much lesse of Treason, in making Sir *John Hotham* their Agent in this service. They having a common interest therein, since Souldiers, Citizens, and other private persons may lawfully raise Forts and Trenches on others grounds, or pull downe any houses and Suburbs for the publique good, (though they have no particular interest in their Lands or houses, but only a temporary common interest upon these publique occasions.

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The fourth Proposition.

THE fourth Proposition is this, *That in all doubtful cases, of Treason not within the expresse Letter and words of 25. E. 3. Parl. 5. c. 3. neither the King himselfe, nor his Judges, but the Parliament and King in Parliament (if he will be there) ought to declare and determine what act is Treason, and what not.*

This is cleare by these expresse words of 25. E. 3. c. 3. of Treason, and it is accorded that if any other case, supposed Treason which is not above specified (in this Act) doth happen before any Iustices, the Iustices shall carry without going to judgement of the Treason, till the cause be shewed and declared before the King and his Parliament, whether it ought to be indged Treason or Felony, Which clause was afterwards ratified by 11. R. 2. c. 3. 1 H. 4. c. 10. and by 21. R. 2. c. 11. where Judge Thorning affirmes, That the Declaration of Treason not declared, belongeth to the Parliament, which part of declaring Treason, some hold is utterly taken away by 1 Maria-Session, 1 Rastall Treason, Sect. 20. (which others deny) and that no other Treason is, or can be at this day (unlesse by speciall Act of Parliament) but what is within the very Letter of 25. E. 3. c. 3.

This being indubitable, these Conclusions will necessarily follow.

First, that neither his Maiestie alone; nor yet accompanied with his privy Counsell or Judges, hath any legall power or right at all to declare or determine what is Treason, and what not, or to declare or adjudge any particular Act to be Treason, unlesse it be clearly within the expresse Letter of 25. E. 3. c. 3. Therefore his Maiesties owne private & Declaration of Sir John Hothams Act (inseizing the Towne and Magazine of Hull, and his refusall to admit his Majestie into the Towne when he came to dispossesse him of it) to be Treason, being out of the Letter of the 25. Ed. 3. and his *proclaiming of him to be a Traytour*, must necessarily be both void and illegall.

3. Secondly, The Kings Judges and Justices, even in Courts of Judicature, where they may finally determine and resolve what is law in all other cases neither can, may, nor ought to declare and determine what is Treason, and what is not, in any cases out of the very Letter of 25. Ed. 3. but ought to refer to the Parliament, and receive a resolution from them, whether it be Treason or not. So are the expresse words of this Act of 25. E. 3. and others since. If then the Judges are thus to be resolved by the Parliament onely, what is Treason, and what not, then there is no reason or sence, why the Parliament should be sent to the Judges to be advised and resolved by them, what is Treason: or why the Parliament should be taxed for Voting Sir John Horbams Act not to be Treason, *without consulting first with the Judges* to know of them whether it were Treason or not. Since the Parliament in this case of Treason, are to direct and resolve the Judges, not the Judges them.

Thirdly, both Houses of Parliament upon the Kings Appeale to them for iustice against Sir John Hotham use Traytour, for not admitting him into Hull, and upon Sir John Hothams Letter to them, relating the truth of his whole carriage to the King in this cause, have acquitted Sir John Hotham, and Voted this Act of his, (warranted by the command of both Houses) not onely to be no Treason nor Felony, but not so much as a Mildemeanour, seeing all he did was onely in discharge of the trust which the Parliament had reposed in him, for the safetie and peace

peace of the whole kingdom, and prevention of a Civil-warre. Since then the whole Parliament, the onely proper Iudges of Treason, upon the Kings and Sir John Horham: severall appeales to them, have both voted and resolved Sir John Horhams Act to be no Treason, nor Crime, nor he to be any Delinquent, neither the King himselfe (who oft professeth in his late Declarations to rule and governe all his people onely according to the Lawes of the Realme, according to his Oath) nor his Councell, nor Iudges can by any Proclamation or Declaration, or by any Iudgement in any Courte of Justice, which hath Countenance of Treason, declare this Act of his to be Treason, or him a Traytour or Offendour. Let all of them, and the whole kingdom both for the present and future, be fully satisfied, and concluded by the Parliaments Votes and Resolutions: whom our Lawes declare, to be the onely proper Iudges of this cause pretended to be Treason, and to Sir John Horham that go free.

Having thus passed through these four Propositions, and the Deductions from them, I shall now draw towards a conclusion of this Discourse.

Sir John Horhams case and Hulls truly stated and debated.

The onely, if not principall pretence of his Majesties late raising an Army in the North, and of a most sad and unseasonable Civil-warre (which it proceeded in, may soon prove destructive to all his Majesties three Kingdoms) is Sir John Horhams seizing on the Town of Hull, and the magazine there by Order from the Parliament, for the peace and security of the Realme, and his denying his Majesty entrance into the Town, when he came to take possession of it: Which Act his Majesty hath in his Proclamations and Declarations declared and proclaimed to all his loving Subjects to be no lesse than high Treason, and Sir John Horham to be a notorious Traytour.

The sole question then will be, *Whether these Actions of Sir John Horham be Treason or not by the Lawes of the Realme?* And under correction, I conceive it is as cleere as the Noon-day Sunne, that they are no Treason.

That his taking possession of this Town and Magazine is no Treason, no, nor yet so much as a Trespasse or offence in point of Law, I have sufficiently demonstrated in the premises. *Whether his denying his Majesty to enter Hull, and his keeping possession of it, be high Treason,* will there be the sole question, which before I shall determine, I shall truly state the case.

Sir John Horham by Order of both Houses of Parliament was enioyned to keepe possession of the Town and Magazine at Hull, for the prevention of Civil-warres, and preservation of the peace and safety of the Realme (which some malignant Spirits advised his Majesty to seize on and turn against the Kingdom) and not to deliver them up to any whatsoever, without their speciall Order.

The King on the 23 of April rode to Hull, attended with about 400. Horse (the Duke of Yorke, and Prince Elector being at that instant royally entertained by Sir John Horham in the Towne, who came thither the day before) and required Sir John Horham to deliver up the Town into his hands. Who perceiving his Majesty to be accompanied with such force as might have mastered the Garrison of the Towne, and having

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received Intelligence of an intention to deprive him of his life, if the King were admitted, informed his Majesty of that trust reposed in him by both Houses, that he could not admit him into the Town without breach of that trust, and therefore humbly beseeched his Majesty to give him leave to send to the Parliament to acquaint them with his Majesties commands, and to receive their directions thereupon, which he would do with all expedition. His Majesty rejecting this Answer presently caused him and his Officers to be proclaimed *Traitors* before the Towne Walls, and dispatched a Message to both Houses, charging Sir John Hotham with high Treason, aggravating his offence, and demanding Justice against him. The Parliament upon true Information and stating of the case, the 28. of April, 1642. resolved upon this *Question*.

That Sir John Hotham according to his Relation, had done nothing but in obedience to both Houses of Parliament. That this declaring Sir John Hotham *Traitor*, being a Member of the house of Commons, is an high Breach of Priviledge, and being done without processe of Law, is against the liberty of the subiect, and the Law of the Land.

This being the true state of the case, I shall clearly manifest by the Law of the Land, this Act of Sir John Hothams to be no Treason, and he no Traitor.

It is irrefragably evident by the Statutes of 1 E. 6. c. 12. and 1 Maria 1. Session 20. that there is no Treason at this day but what is within the very Letter of 25 E. 3. c. 3. all other Treasons being repealed by these Acts or expired. The *Question* then will be, *Whether this case be within the very Letter of 25 E. 3?* Certainly there is not one syllable in this Act which concerns this case. The King pretends it is within these words, *If any man doe levy Warre against our Sovereigne Lord the King in his Realme*, that it is Treason by the Letter of this Act. But here there is no levying of war, no act of hostility or war was exercised by Sir John Hotham against the King, Sir John Hotham was onely passive and defensive, not active, he onely depyed his Majesty the possession of the Towne by Order from Parliament, to prevent warre, and preserve peace, and if he be a Traitor, the whole Parliament must be much more Traitors who put him upon this service: *Quia plus peccat Author quam Actor*, as our Law determines, therefore this neither is, nor can be any levying of warre against the King, or Treason within this clause.

This is most apparant by the Statute of 5. and 6. Ed. 6. c. 11. Which because the detaining of the Kings Forts from him, was not within the words or intentions of 25 E. 3. did specially enact. *That if any person or persons after the first of June Rebellionly (mark the word) doe detaine, keepe or with-hold from our Sovereigne Lord, his heires and Successors, any of his or their Castles, Fortresses, or holds within this Realm, or any other the Kings Dominions or Marches: Or rebellionly keepe, detaine or with-hold from his said Highnesse, his Heires or Successors any of his or their Ships, Ordnances, Artillery or other Ammunitiones or Fortifications of Warre, and doe not obediently render and give up unto our said Sovereigne Lord, his heires or Successors or such persons as shall be deputed by them, such Castles, Fortresses, Fortificalles, Holds, Ships Ordnances, Artillery, or other Munitions, or Fortifications of war, rebellionly kept or detained within 6. dayes next after*

after they shall be commanded by our said Sovereigne Lord his Heires or Successors, by open Proclamation under the great Seale, the same Proclamation to be made in such place and order, so as the parties to be charged by this Act may conveniently have notice or knowledge thereof, that then every such person or persons so offending in any the premises, their Abettors, &c. Being lawfully convicted the Rebellionously keeping or detayning thereof according to the Lawes and Statutes of this Realme, shall be adjudged Traytors, and shall suffer paines of death, and lose and forfeit all their goods and chattels, Lands and Tenements unto the King, as in cases of high Treason. This Act makes the detayning any of the Kings Castles, Forts, &c. Treason, But yet with these three Limitations.

First, that they must be Rebellionously kept and withheld; which Hull was not, but onely by Order of Parliament for the kingdomes peace and safetie.

Secondly, that they must be detained six dayes at least, after command to surrender them. But the King proclaimed Sir John Hotham a Traytour for not delivering up Hull the same day, a houre he demanded it, without giving him any respite, which is contrary to this Act.

Thirdly, There must be a Proclamation under the great Seale to demand the Forts and Castles, and the same Proclamation must be so made, that those who detain them may have notice of it. But in this case there was no such Proclamation made against Sir John Hotham, but by Herald by word of mouth, and so no Treason within the Law, admit it were in force: But the Law and clause (which if in force might have given some colour to his Majestie) as all Judges and Lawyers resolve, was totally repealed by the statute of 1. Maria. Rastall Treason 20. (which expressly repeales all other Treasons but those within the very Letter of 25. E. 3.) and so the detayning of any Forts or Castles at this day from the King is no Treason, because not within the words of 25. E. 3. chap. 3. the onely Standard and surviving Law to judge Treasons by.

This Statute of 5. Ed. 6. cap. 11. being repealed, and this case being not within the words of 25. Ed. 3. the Parliament in 14. Eliz. was enforced to make a speciall Law (which was enacted onely during the Queenes life, as appears by the last provision in it) whereby they enacted, that if any person or persons whatsoever, doe unlawfully, of his or their owne Authority, (which is none in Sir John Hothams case, who did nothing but by order of Parliament) compass, imagine, conspire, or advise by any wayes or means by force or craft, &c. Maliciously or Rebellionously (which he did not but by authoritie of Parliament) to take, detain, or keepe from the Queene, any of her Castles, Towers, Fortresses, or holds, &c. And do advisedly by any expressed word, speech, act, deed or writing utter or declare his said malicious and rebellious intents, that then every person or persons so offending in the Premises, being thereof lawfully convicted according to the Lawes of this Realme, shall be adjudged a Felon or Felons, and suffer paines of death as in cases of Felony, &c. And if any person or persons, at any time hereafter with force Maliciously and Rebellionously (which is none in Sir John Hothams case, who did all by the Parliaments command) detain, keep or withhold from the Queene, Majesty any of her Castles, Towers, Fortresses, or holds within the Realme, or any of her Dominions or Countries, or Marches of the same, or do Maliciously and Rebellionously, or with force detain, keepe or withhold from her Majesty any of her Ships, Ordnance, Artillery, or other Munitions, or Fortifications of War, and do not render and give up the same to our Sovereigne Lady, or such persons as her Majesty shall appoint to receive the same to her use within six dayes next after he or they so offending, shall be commanded by our Sovereigne Lady the Queene, by open Proclamation under the great Seale of England to be made in any place or Market Towne within the Countie where any such offence shall be committed, &c. that then every person or persons so offending, their Aiders, Counsellors and abettors, being thereof lawfully convicted according to the Lawes of the Realme, shall have and suffer such paines of death, also shall forfeit and lose, as in cases of high Treason limited and accustomed.

By this expired Act, which was to continue onely during the Queenes life it is evident. First, that this detayning of the Kings Castles, Forts, Ships and Ammunition is no Treason within 25. Ed. 3. (Not then this Law had been idle and superfluous, especially being intended

during the *Queenes* life) and so there can be no Treason at this day in *Sir John Hothams* Act. Secondly, That no detayning or with-holding of such Castles, Forts, Ships and Ammunition Treason within these particular acts, but that which is done *maliciously and rebelliously*, and *continued six dayes after a Proclamation under the great Seale, and proclaymed in the Countie to deliver it up unto the Queene*, or her substitutes for her use. Now *Sir John Hotham* detained *Hull*, & denied his Majestie to seize & enter it, not *Maliciously & rebelliously*, but in obedience to the Parliaments command, which intrusted him to keepe it for the present both for the King & Kingdomes, for the prevention of Civill-warres and danger to the Realme, and the excluding of forraigne forces which might be landed there, neither did his Majestie make any Proclamation under his great Seale, or give him six dayes space to deliver it up. Therefore this Act of his is and can be no Treason, neither within the particular expired forecited Acts, were they in force, much lesse than 25. E. 3. which extends not to this case. And so his Majestie was utterly mistaken in the law, in proclayming *Sir John Hotham* Traytour, and declaring this act of his to be Treason, of his owne head, without consulting with his Judges or Councell learned in the Lawes, who would unquestionlesse have informed him: That this Act of his is now neither Treason nor Felony by Law, had he done it of his own voluntary accord, much lesse seeing he did it only by the Parliaments direction and command, as their Servant for the common safetie of the Realme, exclusions of forraigne forces and Artillery, and prevention of an intended Civill-warre, without any thought of the least disobedience or disloyaltie to his Majestie, into whose possession he declared it was and is ever ready to surrender up the Towne as soone as the Parliament shall command him. In a word, the *Scots* late seizing upon all his Majesties Townes, Castles in *Scotland*, and on *Warrington* here, and detaining them against him after demands, hath by his Majestie and both Kingdomes in Parliament beene tacitly, if not expressly resolved and declared to be no Treason, being done for the publique peace and safetie of the whole Realme of *Scotland* and *England*: therefore much more must *Sir John Hothams* seising but of *Hull* one single Towne, and his detaining it for a season onely for his Majesties and the kingdomes use, and the peace and safetie of the whole kingdom, and that by the Parliaments expresse command as their Instrument, be adjudged no Treason, Felony, no nor Misdemeanor. And since both Houses of Parliament the only proper Judges of Treason, to whom both the King and *Sir John* appealed for iustice, have on full hearing and debating of the cause, voted and adjudged it, to be no Treason or offence, and published these their Votes in print to all the world, I cannot discerne, how by any Law, his Majestie, or his Malignant Counsellors, can possibly fasten any charge of Treason, Felony, or Misdemeanor, upon *Sir John*; but must all conclude him to be an innocent Noble & well deserving Gentleman, for so faithfully and courageously discharging the trust reposed in him by the Parliament for the whole Kingdomes peace and security, and his Majesties safetie too. As for his late drowning of the Countie about *Hull*, to the spoyle of much Grasse, Corne, and great prejudice of particular men, with which his Majestie chargeth him in his last Letter to the Houses; it is onely for better preservation and defence of *Hull* for the common safetie, and therefore he may by law iustifie this Act, even as men in times of Warre may iustifie the burning or demolishing of suburbs for the whole Cities safetie, and the making of Forts and Trenches in another mans land, for to resist an invading enemy. Which I have formerly proved Lawfull by our Lawes. Moreover, this drowning was through his Majesties owne occasion (on whom the blame must originally rest) who came to besiege *Sir John Hotham* as a Traytour, and take *Hull* out of his custody (contrary to the trust reposed in him by the Parliament) by force of Armes with an Army of Horse and Foote, to the open violation of the kingdomes peace, the endangering of the whole Realme and Parliament, against whom this warre is principally raised and intended, under pretext of being avenged of *Sir John Hotham*; who hath done nought but by the Parliaments direction, as their servant, and trustee for the safe keeping of *Hull*, nor against the King,

King, but only for the King and Kingdomes use, till it may without danger to the Realm, by Order of Parliament be rendred up into his Maiesties actuall possession; who hath no particu-
 Right or Title to it, but only a generall, as the Kingdomes servant and Trustee for the peo-
 safety, which is now endangered through his Maiesties listening to evill Counsellours, who wh-
 per to him in private, and have engaged him in a Civill-war against his Parliament and Peop-
 and not hearkening to his Parliament, the Graund Counsell both of King and Kingdome, who
 publique impartiall advice, his Royall Progenitors have alwayes most highly esteemed, and
 lowed, and thereby made themselves great and honourable, and the Kingdome happy.

The Conclusion.

I Shall now winde up all in a few words, I suppose I have made it most apparently evident
 every indifferent mans judgement, that Sir John Hothams forecited Actions (with which
 Majesty is so much incensed) are neither Treason nor Felony
 by the Laws of the Land, (by which his Maiesty hath oft late-
 ly protested to rule, and be guided, the Kings of England by
 their Coronation Oaths being subject to their Laws, nor their
 Laws to them) and by the Parliaments resolution, not so much
 as a Misdemeanour or offence, but a lawfull act done by the
 expresse commands for the publique peace and safety of the
 Realm, and prevention of a Civill war. I appeale then to his
 Majesty, to every English mans, or other Subjects Conscience,
 and advise them all in the presence of God (as they will answer
 the contrary at the great approaching day of judgement) seri-
 ously to consider, and then resolve within their breasts; whe-
 ther these inoffensive Acts of Sir John Hotham, accompanied
 with all the precited Circumstances, be a just and sufficient
 ground, to the King or any of his Subjects, in point of conscience or policy (especially in
 season, when Ireland is in danger of losing, and England almost exhausted with necessary
 publique payments, with voluntary contributions, and much distracted and divided in it self
 raise an unnaturally bloody civill war against Hull, and in it against the Parliament and K-
 dome, by which the King and his Partisons will be by degrees so far ingaged against the Pa-
 ment and his Kingdome, and they by way of just defence so far ingaged against the King
 them (without Gods mercifull prevention) that we shall all now (after so long enjoyed pe-
 most unnaturally sheath our swords in one anothers bowels, cut one anothers throats, shed
 anothers blood, burn, spoile, waste, destroy, and prey upon one anothers houses, Lands, Go-
 possessions, make our whole Kingdom a very Field and Sea of English blood, and in concl-
 (without Gods interposing mercy) utterly ruine both our King, Kingdom, Parliament, R-
 on, our selves, and our posterities, and make our Land a prey to Popish forraign enemies,
 now reioyce at our divisions, (which they much foment) and thereby hope to surprise and
 ly conquer ere it be long. And if our consciences answer us, (as they will) after full d-
 ration, that these Acts of Sir John Hotham be no iust cause or ground to warrant such unna-
 bloody, fatall, destructive civill war; O let us not then once venture or presume to re-
 Armes against our own deare native Country which hath bred us, against the Parliament v-
 night and day, and spend both their Fortunes, time and spirits to redresse our grievance
 vent our immanent dangers, advance our happinesse and prosperity, and preserve our lo-
 ioyed Tranquility, against our deare loving brethren, kindred, friends, and Countrey-me-
 never did us the least iniury, against our selves, our children, families, which a civill w-

(t.) See Stephen Gard-
 Letter to the Lord Protec-
 Fox, Acts and Monuments.
 Edition, p. 741. b. where he
 firmes (that he being Amba-
 dour to Henry the 8 in the E-
 perours Court, did there in a
 of Jewels defend and maintai-
 commandment of the King)
 the Kings of this Realme
 not above the orders of
 Lawes.

ickly ruine, nor yet to countenance, iustifie or side with those unnaturall vipers, and unreason-
 able sottish brutes, who either maliciously, or inconsiderately foment, and promote such an un-
 naturall, impious, causelesse civill war. But let us all put forth our utmost best endeavours, and
 pure out our fervent prayers to God to prevent and cease these civill combustions, to ayd and
 preserve our deare native Countrey, Kingdom, Religion, the Parliament, our selves and our po-
 sterity against these malignant Incendiaries, who seek their utter destruction. O let no true bred
 English man or Christian be so degenerate, so barbarous and brutish, as to become his owne, his
 are brethrens, posterities, Countries, Kingdomes bloody Executioner, to do such disservice to
 his Country in a few dayes or houres, which he shall with brinish teares repent for ever. I shall
 likewise humbly presume to beseech his Maiesty upon the bended knees of my soule, most seri-
 ously to consider all the Premises, and if upon perusall of them, there shall appeare no iust or
 full cause in point of conscience and true Christian (not Machivillian) policy, necessarily to
 force him to make a civill war upon his Kingdome, only for the act of one particular Subject,
 (is yet pretended) which in truth amounts not by the Law either to Felony or Treason, if to
 respasse or misdemeanour, that then he would be most graciously pleased, according to his
 oath, his Royall Duty, and many reiterated Protestations, to preserve his people & Kingdome
 in sweet peace and blessed unity, to disband his present Forces and tumultuous Cavaliers, dis-
 miss all bloody Counsellors who have advised him to a most unnaturall, unseasonable, dange-
 rous civill war, to return with speed to *London*, and close with his great and best Counsell, the
 Parliament, for the preservation and present ayd of bleeding *Ireland*, the settling and composing
 his peoples present feares and distractions, the effecting of a perfect thorough Reformation
 in Union in Church and State, the redresse of all remaining grievances, the advancement of
 each, of the flourishing estate of his three Kingdomes, and his own Royall Honour, Revenues,
 Greatnesse, which will eternally gain his Maiesty the fervent Prayers, hearts, affections, pur-
 sue and ready service of all his Kingdomes and Subjects, together with immortall honour, wher-
 he shall still proceed in prosecution of this desperate civil war against his people, Kingdom,
 Parliament, the guilt of all his Subjects innocent blood, which shall be shed in this unnaturall,
 causelesse war, will light heavy upon his conscience, be required at his hands, and in conclusion,
 himself, his Kingdomes and loyall people will be brought to the very extremity of misery,
 to utter ruine, after such a long enjoyed flourishing peace, both under his own, and his pre-
 decessors peaceable raignes. I shall conclude with that of the Poet.

U Pax optima Rerum

Homini novisse datum est; Pax una Triumphis,

Innumeris potior; Pax custodire salutem

Et Cives aquare potens: Te petimus omnes.

O Most gracious Lord God, though thou justly plague us with thy other Judgements for
 our sins, yet give us not over to the sword, the sorest of all thy Judgements, an unnatu-
 rall bloody civill war, but since thou art a (x) God of peace, and hast promised, (y) to give thy
 people the blessing of peace, (which we of this Land have now unimerruptedly enjoyed almost
 an hundred years together through thine extraordinary mercy) do thou out of thy superabun-
 dant goodnesse continue and (z) preserve us still in perfect peace. Whose hearts are stayed on
 thee. And let there be no end of our peace with thy heavenly Majesty, with our own consci-
 ences, and one with another. (King with Parliament, Kingdome, and People, and they with
 King) till Iesus Christ the (a) Prince of peace his second coming, who shall give all his
 (b) everlasting peace and blisse in his celestially Kingdome. Amen, Amen.

V O X P O P U L I

The peoples humble discovery of their Loyalty,
and His M A J E S T I E S ungrounded Jealousie.

Lthough the Charmes of Rhetorick have stained your Majesties *Declarations, Answers, Proclamations, Speeches, and Messages*, with all the gall and opposition that possibly could be infused to exasperate us into the Nature of bad Subjects; yet we are resolved to depart from nothing, that may oblige, & court your Majesty to continue our gracious King.

Your evill Councillors have tempted your Majesty in all they could to divide your individuall Person from your Regall Authority; and we have vowed in the presence of God, with all the power, and industry we have, to keep them unseparable: which being inconsistent with the Malignity of that Counsell, which daily ioynes it self closer to your Maiesty, and divides us, we are necessitated to imploy that power for the separating that malignity from your Maiesty, which else will be the ruine of us all, both King, and People.

That there is Malignity, The strong siding for the Lord *Strafford*, and for the Votes of Popish Lords in Parliament; The difficult yeelding to such good Acts, as began to establish our Peace, and adventuring to question the same at your Maiesties return from the North, by a *Quare* of the freedome of this Parliament; The many attempts for dissolving us; The late and slow disarming of the Papists; The enticing many worthy men of quality to Petition against established Votes, to the great disturbance and dishonour of both the Houses, and then incensing them to sacrifice the Peace and Liberty (if not the Lives) of themselves, and the whole Kingdome to their inconsiderate Revenge; and lastly, the uniting all those into one Army, by an illegall Commission of *Array*, doe abundantly testifie to all mens Consciences (but such, whom passion, and not malice hath carried from us, we hope wisdom and Religion will restore unto us) Besides, what Malignity hath been wanting in shamefull Reproaches, provoking scoffs, false constructions, preiudicate censures, scandalous libels, treacherous Plots, both at home and abroad, in slugging all proceedings, that tend to the safety of *England*, or *Ireland*; in making cheap the repute of Parliaments; and lastly, both in the invitation and consent of deserting the Houses to attend and countenance your Maiesties strange distance from your Parliament, and taking up of Armes against it.

We would not accuse your Maiesty, our hearts abhor it; nor will our Laws suffer it, unlesse they speak, and proceed to extremities: although your Maiesty endeavour much to be thought the sole Agent: But (as our Laws instruct us) we accuse such Counsellors, and instruments of Regall commands, without which the Regall Office cannot stand: though we do not instance in all the particular Authors, the causes of all things being found, but with difficulty: for such, as dare do ill, will not want so much self-love, as to conceal it, having the lives and livelihood of them and theirs at stake to bribe their secrecy; untill such time, as they grow bold in wickedness, & discover themselves, or that *He that seeth in secret, brings them forth to be rewarded openly.*

And in this loyall care of your sacred person, and tender respect of your Princely honour, finding that besides the daily discourse of successive dangers (which seemed to be countenanced by your Majesty) and of unsupportable grievances past, and present, both in Church and State, with the slow, and difficult reparations of either; the people had also strengthened a jealousy from the intercourse of Letters between the Pope and your Maiesty, then Prince in *Spain*, &

your preferring the embraces of a Catholike, before a Protestant, to be the Consort of your Royall bed, and bosome, from the increase of Papists, Priests, Jesuits, and a Papisticall Clergy, and Ceremonies throughout the Land : and the generall decrease and severall persecutions of Protestants and faithfull Preachers, from the common boast even of Papists themselves, that you were of their Religion, and all your Maiesties most seeret Councils were first known to them : from the sharp and rager proceedings against Scottish Protestants, & slow proceedings against Irish Papists, and Rebels : And lastly, from the earnest Reprieve of Priests or Jesuits at first; and afterwards of 6. Priests and Jesuits; & high accusation desperately prosecuted against 6. Members of our Houses of Parliament; that your Maiesty had certainly given up your Faith unto the Sea of Rome. So that being also enflamed by the rebellious and prodigious Massacres of Ireland, there remaining no oaths, nor execrations sufficient to satisfie iealous people from Princes, that once give up their belief unto that Sea, which allows no Oathes, nor Faith to be kept to such, whom they shall pronounce Heretikes, as they do us, and imposeth a Conscientious obedience, secrecy, and assistance to all their dismall Stratagems : We resolved without publishing the dis-ease (as a soveraign remedy) to settle the *Militia*, and thereto counselled your Maiesty.

But what is Councell, if not followed ? And what are your Maiesties Acts without Councell ? Surely if your Maiesties Acts of Parliament are guided, and are not authenticke, but by advice of your Maiesties Attourney, Judges, or Privie Councillors, and they have power to Declare so ; shall the Great Councell of Parliament goe lesse, that gives to all them being, and includes them ? Or shall the Orders of any of their Courts be Legall, and shall not those of the Parliament be much more ?

In this advise therefore, and resolution of the *Militia* (which your Maiesty used, when there was no need) we yet most humbly and earnestly in this extreame need and necessitie of the Subiect persist, untill your Maiesty remove the iust occasions of feares, and accord to a sufficient cure of Jealousies, by putting the Peoples safety into the Peoples owne hands : whose Jealousies are no whit abated by your Maiesties absence from Parliament, and raising of contrary Forces, and sending of severall Menaces, and returning to your old Councils ; and the Papists cheerefull interest themselves in ; and reioycing at all your proceedings, they all appearing like so many severall *Omens* of the peoples returne to their old Ceremonies and to their old Grievances, or worse : Nor can we suffer those who by the Councell of the Nation have done faithfull service to the Nation to perish for their faithfull service.

The Acts of Sir *John Horham*, and the rest employed for the *Militia*, and for the Navie, had generall commands and instructions to authorize them, and have had particular approbations to confirme them: they must not suffer, and we live; nor shall so great a sinne make our Nation odious to God and man if we can helpe it. It is not the allegation of a *minor* part of *Parliament* can abuse the wiser, and more Religious sort of your Subjects, since all men know, that each mans Vote is of equall power, and freedome in Parliament, and the voyces of a few cannot out eccho a great many; whatsoever therefore is there concluded, cannot but by pluralitie of voyces, which truly makes the Parliament, and the dissenting party makes up the faction, if they persist : or, if it should so fall out, that the *major* part (through neglect, or confidence in them remaining) absent themselves, then are their Votes no lesse included in the persons remaining then the Votes of the whole kingdome in the fulnesse of Parliament : If any be deterred from this freedome, it argues guilt, or cowardize, either of which should pronounce such a one unworthy a trust of so great importance, none being called to the barre, but such as speake directly opposite to the published or concluded orders of the House, or wilfully to move sedition by distracting the sense of the House, to the great hinderance and dangerous delay of more necessary affaires : or else the consciences of men (convinced with their reasons and propositions) would soone engage the *minor* part in their behalfe, and not against them which thing likewise may be said of those multitude

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titudes comming with congratulations to confirme such, as freely discharge their duties; it being the dutie of all to speake the sense of the *maior* part of the people, and such confirmations but the tokens of it; and if this were not so, we run the greater hazard in your Majesties displeasure, then the dissenting partie in the disassenting of their equalls.

We doe avow all our proceeding to be by the Law of God, the integrity of our owne consciences, and the Law of the Land, the interpretations whereof, whether it be fitting to be delivered up unto your Majesties Arbitrament, and such as your Majestie will advance thereunto, or to remaine in Parliament (wherein the libertie and votes of Subiects are preserved) your Maiesty may iudge, or which of these people will consent to.

As for Arbytrarie power (which onely is incident to *Kings* and *Princes*, who setting up their will for Law, forsake the benefit of Counsell) it cannot possibly in any kind be a iust aspersion on a Parliament, which is it selfe a Councell, the greatest Councell, and the very proper foundation of all the Lawes of the Kingdome.

We doe confesse in this your Maiesties absence and dissent, we find a want of that harmony, which should make all our Orders, as well pleasant and delightfull, as good and profitable; and we grieve no lesse for your Maiestie, who in this remotenesse devest your Royall Person of all that glory and authority, which should accompany your Royall actions.

What should your Maiesty pretend any feare, when your undaunted courage left such a testimony to the contrary, in your passing with so small attendance through the Citie, and dined there, even then, when the newes of *Ireland* had galled the memory afresh of former plots, and the zeale of people stroke into flame for the dangers of Parliament, and were imbittered with the remembrance of hardly-escaped burthens of Monopolies and ship-monies, Court of Honour, Star-chamber, High Commission, and the Canons? Or what could lesse partake of feare, then such a desperate assault of the priviledges of Parliament in your owne most Royall Person, with such an uncouth sort of attendants, the very day before?

And as there was no signe of feare in your Maiestie, so was there no cause of feare from us, or from any your Maiesties Subiects, to whom (had we entertained the least disaffection or disloyaltie) there wanted not opportunitie in any of those times to have endeavoured our owne ends; but so farre were we from any such attempt (as the malignant persons doe falsely belch upon us) that we not onely calmed the mindes of the people, but brought them to undergoe those charges towards the *English* and *Scottish* Armies, which those malignant persons had brought upon your Maiesty: Having therefore these great testimonies of love and loyaltie, what can your Maiesty feare or suspect? unlesse you could yet retaine a resolution to consent, or be an actor in some more horrid designe, that could provoke your people beyond all what is past, to forget their resolutions of affections and allegiance to your Maiesty; but sure your Royall presence will discusse all feares and ieaiousies, which your continued absence cannot but foment.

We all have sworne Allegiance to your Sacred Person as King, we did not the same, when you were Prince, nor is it longer of force unto your Royall father, that then was King: when your Maiesty recedes from your Kingly Office, you are so farre absent from the object of our allegiance; there is no difference of benefit to him that hath eyes, and to him that hath none, if light be wanting. All our oaths depend upon the oath your Maiesty hath taken; O, then returne unto your Parliament, and so unto your people; Returne unto your Parliament, and so unto your lawfull power; Returne unto your Parliament, and so unto your State and Glory; where when your royall assent hath confirmed those necessary priviledges, which may keepe whole the consciences and estates of your most Loyall Subiects, all this our body falls into *Atomes*, and your Maiesty alone remains in glory, to be beheld the preserver of those priviledges, which all our long and faithfull endeavours have consulted with your Maiesty.

F I N I S.

all our long and faithful endeavours have continued with your Majesty
and your Majesty's most excellent Majesty, who by the
the confidence and affections of your most loyal Subjects, all this could be made into
your Majesty's power; Her Majesty and to your Majesty's Majesty
unto your Majesty's Majesty; Her Majesty and to your Majesty's Majesty
rightly and lawfully and to your Majesty's Majesty; Her Majesty and to your Majesty's Majesty
alliance, and to your Majesty's Majesty; Her Majesty and to your Majesty's Majesty
your Majesty's Majesty; Her Majesty and to your Majesty's Majesty; Her Majesty and to your Majesty's Majesty
We shall be ever ready to assist in your Majesty's Majesty; Her Majesty and to your Majesty's Majesty
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and your Majesty's most excellent Majesty, who by the
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your Majesty's Majesty; Her Majesty and to your Majesty's Majesty; Her Majesty and to your Majesty's Majesty

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JULY 1993